

**TOWN OF NORTHFIELD
BOARD OF SELECTMEN
Minutes of September 25, 2006**

Prior to the regular Selectboard meeting, a Public Hearing was held for the purpose of obtaining written or oral views on the Warned Town Article to be voted upon by Australian Ballot on Tuesday, November 7, 2006. The Australian Ballot Article in question is the proposed adoption of a Town Charter for the Northfield Municipality as submitted by petition to the Town Selectmen on August 3, 2006.

Selectboard Chair Donald Wallace called the Public Hearing to order at 7:00 p.m.

Chair Wallace then set the ground rules for the Public Hearing. He noted that the proposed charter was presented directly to the Town Clerk's office and the majority of the Board was unaware of this proposed charter beforehand. The document must have two public hearings and must go to the voters in current form ("yes" or "no"). He then asked for those present to express their views on the proposed Town Charter.

Terry Gray represented Northfield Citizens for a Better Community (NCBC), the group that prepared and submitted the document in question, and she spoke first. She said that the proposed town charter is a general guideline. It would not replace or eliminate any positions. It provides power for local control that is denied to current towns that do not have charters. Without it, we are bound to general state laws. NCBC reviewed at least twenty (20) other charters when preparing this document. They have retained an attorney, Paul Gilles, who has extensive knowledge regarding town charters. Mr. Gilles had planned to attend this meeting but was unable to do so. He intends to be present at the second Public Hearing (10/03/06) to answer any legal questions.

Charlie Morse then spoke in opposition. He stated that the proposed charter makes substantial changes to the current form of government in Northfield. He requested that an answer be provided on how to propose state law and how to make these changes. He stated that the section entitled "Utilities" (§130-104) does not grant any additional rights to Town residents than those that currently exist. He said that the section on "Emergency Services Funding" (§130-106) requires that support of these services "should be budgeted according to usage." Mr. Morse stated that the costs of Ambulance services already are charged to the users; the costs of the other emergency services (Fire and Police) are assessed on a prorated basis. He noted that the section on the Treasurer (§130-114) states that this person must "invest Town funds coming into his/her hands in the manner designated by the selectboard." At present, the Towns' Accounting Manager does this on a daily basis. As the Selectboard only meets twice a month, having to wait for the Board's approval would gravely impact the ability of the Town to make timely (and profitable) investments for the taxpayers. Mr. Morse further stated that the provisions of the section entitled "Town Manager/Town Administrator" (§130-115) provide this person with financial duties that are not allowed by state law. State law clearly states that the Town Manager does not have the authority to sign orders on general funds but this charter would allow it. This would eliminate the checks and balances of the Town Manager's powers.

John Lyon then spoke in regard to the section entitled "Recall" (§130-116), which provides for the removal from office of elected town officers following the filing of a petition (10%) and a public vote (2/3). He stated that he had four (4) significant issues with the way this issue was addressed. First, there is no requirement that there be any grounds ("cause") for the removal of Town officers. Second, there is no requirement that a person must hold office for a specified amount of time before the recall process begins. Thus, a person could be elected one day and the recall process could begin the next. Also, this process does not insulate officers from political pressure; if they make decisions that upset small interest groups, they could be subject to a recall process. Lastly, he believes that the provision that recalled officials would be ineligible to hold any town office for five (5) years is unconstitutional and asked which jurisdiction in Vermont or any other state allows this. He felt that it was unfortunate that this group could not have consulted with the Selectboard beforehand and he believes that this charter would not be in the best interest of Northfield.

Brad Denny was concerned that in the section entitled “Zoning Administrator” (§130-118), there is a reference to the “development review board.” Northfield does not have a “development review board” but rather a Zoning Board of Adjustment. This suggests that this section was not well thought through but instead merely copied from another document without reference to Northfield. Mr. Denny also saw an attack on local government in the provision in the section entitled “Ordinances” (§130-130) that would make every ordinance adopted by the Selectboard subject to referendum at a special meeting. This would mean government not by representation, but by referendum. This would be a major change in how Northfield is governed and requires a lot more examination than that is allowed in the short time frame.

Roy Williams stated that he is undecided on this proposed charter. He is disappointed in things he has seen and heard since this came out. He also is disappointed that some elected officials, and others present tonight, have condemned those who have exercised their legal right to initiate this process. Although some may disagree with certain parts of the charter, the ultimate decision will be made by the voters. He had heard it said that submission of this petition and proposed charter may interfere with the proposed merger studies. He did not know why this petition would interfere with work of the Merger Committee.

Kenneth McCann stated that large sections of this proposed charter appear to have been taken directly from Town of Berlin’s charter without any attempt to adapt them to Northfield. For example, the section on “Appointed Positions/Officers” (§130-111) includes a reference to “Cemetery Commissioners”, which is an appointed position in Berlin but not in Northfield; Northfield has a Cemetery Superintendent. In addition, Northfield has an Accounting Manager but this position is not listed anywhere. Also, the section on town officers (§130-111) includes “Auditors” in the list of elected town officers. Auditors are elected in Berlin but at the 2000 Annual Town Meeting, there was an article on the warning to eliminate this office and have its duties performed in the future by a certified public accountant. This article was approved by a paper ballot (117-24). This charter apparently would attempt to reinstate this position even though state law requires that any action to reinstate auditors must be at another annual Town Meeting. Lastly, this section would make the First Constable an elective office when currently the office holder is appointed annually by the Selectboard. This is a clear example of the Selectboard losing some of its authority under this proposed charter.

Stephen Hatch stated that approval of a Town Charter would place the Town and Village on equal representation and may facilitate merger in the future.

Nelson Hoffman spoke in regards to the process used to bring this charter forward. He found it surprising that we’re learning about the charter and that with the exception of the first speaker, almost no one has come to speak in favor of it. Where’s the public discussion? The people proposing should be here explaining why this is something we should be supporting. Not only is there silence but hiding behind an attorney (who is not present tonight). Is the issue that people are afraid of paying taxes or want to stop the utilities from being extended? Although this group claims to be looking out for our best interests, they are forcing upon us a document without any discussion or any opportunities for amendments. He challenged those that wrote it to come and speak to the public. If you have to rely on your attorney, you don’t know what you’re putting forth either.

Terry Gray stated that she would answer any questions but would have to defer discussion of any specific legal issues until the next hearing (when the attorney will be present). The committee is not hiding but put all of their names on it. All the group’s members are familiar with this document and they didn’t just “cut and paste” it as has been suggested.

John Lyon asked where the provision for a five-year restriction from holding town office after recalled came from. Ms. Gray did not know of any precedent but stated that if an individual has received enough votes to be recalled, then apparently they have done something that has upset the community. Why should they hold an office that they have been recalled from?

Kerri Hoffman asked how this charter would make our government more efficient. It seemed to her that we’d be headed towards many lawsuits. It sounds like more would be voted on and this would be an assault on our government. Ms. Gray stated that this charter would give all the power back to the voters. The voters would have more opportunity to decide matters (rather than just the five-member Selectboard).

Nelson Hoffman asked for an explanation of the section on utilities, i.e. the purpose and why it will improve Northfield. Karen Gillespie stated that currently the Town has no authority to develop any utility policy and a lot of people outside of the Village have not had any opportunity to speak out on utilities. The Town can't give anyone any legal rights over the utilities. They don't feel welcome to speak to the Village Trustees about utility issues. This charter would give non-Village utility users the right to discuss matters with them.

Steven Jeffrey, who is a member of the Planning Commission, first stated that he was flattered that the Planning Commission is mentioned twice in the list of appointed officers (items g. and l). He noted that if the charter was approved by the voters, it would also have to get approval from the state legislature. We would be allowing the legislature to make these changes for us.

Roy Williams asked if any changes that need to be made could be made at the time of the ballot. Terry Gray stated that any wording that is inaccurate could be amended at the time of voting.

Selectboard Chair Wallace disagreed, stating that, according to the town attorney, the only changes that can be made are very minor ones, i.e. spelling errors. We have to present this document in its current form. Terri Gray disagreed, saying that the Selectboard can fix the wording.

Nelson Hoffman stated that it was humorous that the group has been working for two (2) years, they claim to bring power back to the people, and yet they have not even brought a draft to the Selectboard. Why was not this document brought to the Selectboard in a draft form? We now cannot make significant changes, only "typographical." Ms. Gray stated that changes can be made, this is only a guideline. She stated that if the charter were approved, it can then be amended by the people. She added that her group has opened the doors to have others join the committee.

John Donohue asked if there is any provision that says the Selectman cannot make any changes and bring that to the people at the same time. Richard Suitor stated that there was not enough time to have another version go through public hearings, etc. before the vote on November 7, 2006. Chair Wallace added that if the charter passed, all amendments will be done in the legislature, not by the voters in the town.

Selectman Melvin Adams added that, if passed, the charter would be open to the purview of the state legislatures; it is like a bill. You'd have to have a constituent from Northfield make a proposal. You could submit a request to have certain items changed but this opens the whole charter to be changed by the legislature.

State Senator Anne Cummings stated that when she was the mayor of Montpelier, the city had asked for one small charter change but when it went to the legislature, they made an overhaul. If there is dissension in the community, the risk is there that the legislature won't do anything and it will die or that they'll make an overhaul. She advised that you should try to fix your problems locally. You don't want the legislature to fix your problems. State Senator William Doyle agreed with her on the process once a charter goes to the state legislature.

Kathleen Lott asked about the section entitled "Corporate Existence Retained" (§130-101). Currently, Village residents are Town residents and have a vote. Will this continue? Yes.

Charles Morse asked about article (c) of the section entitled "Specific Conflicts" (§130-122), which states that town officers would be "disqualified from any proceeding" in which he/she "has previously expressed an opinion..." Why would anyone endorse a charter that disqualifies a town officer for being proper? Ms. Gray said that Mr. Morse was reading into it. Mr. Morse then addressed article (e) of the section entitled "Adoption of Administrative Code," which requires that "All non-budgeted expenditures over five hundred dollars (\$500.00) are required to go out to bid." Mr. Morse stated that the idea might be sound, but the financial impact is not. Mr. Morse noted that due to advertising costs to put bid notices in the Northfield News, the Times Argus, and the Washington World, management might have to expend a minimum of \$144 for something that costs only \$500. Ms. Carolyn Gillespie stated that this requirement may prevent the purchase of unbudgeted items that are not really needed.

Mr. Morse then referred to the flyer entitled “What Does a Charter Mean to the Town of Northfield,” that was written by the NCBC and distributed in an earlier version of the Northfield News. He believes that there is propaganda in the flyer that obscures the facts. The flyer states that the charter would not change the way the Town of Northfield is governed but, as he and other speakers has indicated this evening, there are provisions of the charter that make significant changes, such as requiring the Listers to appoint an Appraiser [§130-113 (a) (2)]. Currently, the Town’s books are kept in accordance with GASB 34. Why risk those funds by allowing local government to do whatever they want [§130-114 (b) (3)]? The flyer also suggests that the Selectboard has an opportunity to change from a Town Manager to Town Administrator form of government on a whim. He cannot support this charter as written.

Terry Gray stated that Mr. Morse’s discussion of financial accountability has nothing to do with the charter; this is not changing anything that is currently being done now. Regarding the Listers, the Town voted to have Listers who are supposed to be signing the Grand List, not acting as a working board.

Steven Jeffrey is confused by the first line of §130-106, which states that that “Support of the Emergency Services should be budgeted according to usage.” Does this mean that if he does not have a fire, he does not have to pay for the Fire Department?

Lynn Sanders addressed the section about the users of utilities. That is in there because the same thing happened in Williamstown, where he owns property. Due to the merger of the Town and Village of Williamstown, he now pays water and sewer taxes in Williamstown even though his property does not have access to the services. This charter would ensure that the only people who have to pay utility taxes are utility users. Brad Denny said that he does not believe that the Town and Village of Williamstown ever merged. He cannot remember that there were ever separate governments.

Kerri Hoffman took note of the advice of Senator Cummings and Doyle. She finds what we are very far from agreement. She asked if there are towns that recently went through charter or amendment process and if there are there lessons to hear from them? Ms. Gray said that the most recent charters are for those that have recently merged, which required that town and village charters also be merged. Most towns in Vermont have a charter.

Steven Jeffrey notes that §130-109 includes a list of appointed positions, including Working Road Foreman, Fire Chief, Police Chief, Ambulance Supervisor, etc. subject to appointment by the Selectboard. However, in §130-115, it states that the Town Manager/Town Administrator “has oversight of the highway, fire, ambulance, and police departments...” This seems to create some confusion over ultimate authority. For example, if the Town manager tells the Police Chief to do one thing, and the Selectboard tells the Chief to do something else, to who is this person really answerable?

There being no further comments from the public, Chair Wallace asked the Selectmen for their views of the proposed charter.

Selectman Kenneth Johnson stated that this issue of a charter for the Town has arisen in the past and is not surprised that there is one proposed at this point. He would have liked to have seen more public input before the charter was submitted to the Board but he does not see some of the issues that were raised this evening as insurmountable.

Selectman Michael Demasi said that he has several issues with the charter. One that has been touched upon a few times tonight is the portion of the recall provision that would prevent a recalled official from serving in any town office for five (5) years. He questions the constitutionality of this and sees the danger to the community to test that in a lawsuit. The charter would transfers some powers to the Selectboard, such as determining whether the Town should have a Town Manager or a Town Administrator. He believes that this decision should lie with the voters, not the Selectboard.

Selectman Roger LeClair said that this could be a good package but, as is, there is a lot of rewording needed.

Selectman Melvin Adams said that it was incorrect to say that the charter “would not change anything.” He’s not convinced that there is any logic that says we should set aside state law in Northfield and come up with our own charter. There is not a statement of why we need anything in this document. He is especially concerned with the recall provision. The document is not well crafted and it doesn’t meet the needs of the people. He noted that fewer than thirty (30) Vermont cities/towns/villages have charters. He is opposed to this charter at this time.

Chair Donald Wallace stated that he is unhappy with the process in that the proposed charter appeared in the Town Clerk's office in a format that is not open to change. It is being presented to the voters as is and, until tonight, there has been very little public discussion with the community as a whole.

Chair Wallace closed the Public Hearing at 8:40 p.m. The regular Selectboard meeting began after a brief recess.

- I. **ROLL CALL:** Chair Donald Wallace, Selectmen Melvin Adams, Michael Demasi, Kenneth Johnson, and Roger LeClair. Also present were Town Manager Nanci Allard, Clerk Samantha Baraw, Charles Morse, Steven Jeffrey, Richard Suitor, Meg Donohue-Davis, Warren Hagy, John Lyon, Kerri Hoffman, Nelson Hoffman, Anne Donohue, John Donohue, Ann Cummings, Greg Sanders, Lynn Sanders, Kim Cheney, John Wall, Brad Denny, Kathleen Lott, Terry Gray, Robert Tucker, and William Doyle.

Chair Wallace called the meeting to order at 8:48 p.m.

II. **APPROVAL OF MINUTES**

- a. **September 11, 2006 (Regular Meeting).** Motion by Selectman Demasi, seconded by Selectman LeClair, to approve the minutes. **Motion passed 4-0-1, with Chair Wallace abstaining.**

III. **APPROVAL OF BILLS**

- a. **Warrant #07-07.** Motion by Selectman Johnson, seconded by Selectman Adams, to approve Warrant #07-07 in the amount of \$28,934.06. **Motion passed 5-0-0.**

IV. **PUBLIC PARTICIPATION:** None.

V. **MANAGER'S REPORT**

- a. **Crop Walk Day Proclamation.** Sunday, October 1, 2006 is Crop Walk Day in Northfield.
- b. **Status Reports: Various Projects.** Manager Allard had nothing to add.

VI. **SELECTBOARD**

- a. **Grand List Errors & Omissions.** Motion by Selectman Adams, seconded by Selectman Demasi, to authorize the chair to sign the Errors & Omissions dated September 22. **Motion passed 4-0-1, with Selectman Johnson abstaining.**
- b. **Town Tax Rate.** Motion by Selectman Demasi, seconded by Selectman LeClair, to set the homestead interim education tax rate at \$1.8398. **Motion passed 5-0-0.** Motion by Selectman Adams, seconded by Selectman Demasi, to set the non-residential tax rate at \$2.3302. **Motion passed 5-0-0.**
- c. **Planning Commission Appointment.** Motion by Selectman Demasi, seconded by Selectman Johnson, to appoint Joshua Nicosia to fill the vacancy on the Planning Commission subject to a similar vote from the Trustees tomorrow. **Motion passed 4-0-1, with Selectman Demasi abstaining.**
- d. **Municipal Planning Grant Application:** Motion by Selectman Demasi, seconded by Selectman LeClair, to approve the application for the grant. **Motion passed 5-0-0.**
- e. **Bariteau Driveway Permit.** Motion by Selectman LeClair, seconded by Selectman Johnson, to approve the permit. There was a subsequent motion to postpone discussion and action until the next regular meeting (10/09/06). **Motion passed 5-0-0.**
- f. **Inter-Board Communication Guidelines.** Trustees Chair Richard Suitor prepared this document and, if the Board members have comments on it, Chair Wallace would like to have them in writing.
- g. **Merger Committee update.** Minutes of the last meeting (09/18/06) were included in the packet.

h. **Management Committee update.** The Committee has reviewed the Draft Personnel Policy, made a few minor changes, and has sent it on to the attorneys for review. It will then come back to both boards.

i. **Status Reports: Various Projects**

1. **Resolution: Proposed Town Charter.** Selectman Adams submitted for the Board's consideration a resolution (attached) that would express the Northfield Selectboard's opposition to the proposed Town Charter that was the subject of this evening's Public Hearing. Motion by Selectman Demasi, seconded by Selectman LeClair, to accept the proposed resolution. **Motion passed 4-1-0, with Selectman Johnson voting in opposition.**

VII. **PUBLIC PARTICIPATION:** Non-agenda items

- a. **Warren Hagy: Proposed Town Charter Resolution.** Mr. Hagy regrets resolution that was just made. There is as much emotion expressed in that resolution as there was in the hearing tonight. The resolution doesn't bring the groups any closer together than before.

VIII. **ADJOURNMENT:** Motion by Selectman Demasi, seconded by Selectman LeClair, to adjourn. **Motion passed 5-0-0.**

The Board adjourned at 9:25 p.m.

Respectfully submitted,

Samantha H. Baraw

Samantha H. Baraw, Clerk

These minutes are subject to approval at the next scheduled meeting.